

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 3:19cr130-MHL
	)	
OKELLO T. CHATRIE,	)	
	)	
	)	
Defendant.	)	

UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND

Now comes the United States of America, by and through attorneys, G. Zachary Terwilliger, United States Attorney for the Eastern District of Virginia, Kenneth R. Simon, Jr., and Peter S. Duffey, Assistant United States Attorneys, and moves this Honorable Court to enter an order extending the date to file its responses to Defendant's Motions to Suppress until November 19, 2019.

The United States is currently scheduled to respond to the defendant's first five motions to suppress, a motion in *limine*, and a motion for discovery on November 5, 2019. *See* ECF Nos. 17-23. The United States is currently scheduled to respond to the defendant's Motion to Suppress the Evidence obtained from the "GeoFence" Warrant and Motion for Discovery on "Sensorvault" Data on November 12, 2019. *See* ECF Nos. 28-29. In support of an extension to respond to all motions on November 19, 2019, the government states as follows:

1. At the defendant's arraignment on October 1, 2019, the Court permitted the defendant to file any motions within 21 days of discovery in light of ongoing discovery disclosures.

2. The defendant filed five motions to suppress, a motion in *limine*, and a motion for discovery on October 22, 2019. At the same time, the defendant sought an extension, and the United States agreed to such an extension, permitting an additional week to file two motions related to a state search warrant obtained for information in the custody and control of Google, Inc. These motions, the defendant explained, concerned a novel and profound issue.

3. On October 23, 2019, the Court granted the defendant's unopposed motion to extend the deadline for filing to October 29, 2019, in light of the novelty of the issues to be addressed by the two additional motions.

4. On October 29, 2019, the defendant filed his motion to suppress evidence obtained from a GeoFence warrant (ECF No. 29), arguing that such warrants are unconstitutional. As the defendant's motion represents, the issue is one of first impression. In addition, the defendant filed a motion for discovery for "Sensorvault" data (ECF No. 28).

5. In light of the novelty of this issue, and to provide the Court with fulsome briefing, undersigned counsel has engaged the Computer Crime and Intellectual Property Section of the Department of Justice.

6. The motion to suppress evidence obtained from the GeoFence warrant is necessarily intertwined with the remainder of the case because all evidence obtained in this case flowed from that search warrant. Accordingly, to ensure a coherent and comprehensive response to the pending motions, the United States would like to file the response to each motion at the same time.

7. Should the Court conclude that an extension to November 19, 2019, is not warranted for the United States's response to the defendant's motions filed on October 22, 2019,

the United States would ask in the alternative that responses to those October 22, 2019, motions be extended to November 12, 2019. Again, such an extension will more likely ensure that the motions are both logically and factually consistent.

8. The United States has conferred with counsel for the defendant and the defendant does not oppose an extension.

Wherefore, the United States respectfully moves the Court for entry of an Order extending the time in which to file response to Defendant's Motions to November 19, 2019.

Respectfully submitted,

G. ZACHARY TERWILLIGER  
UNITED STATES ATTORNEY

By: \_\_\_\_\_/s/\_\_\_\_\_  
Kenneth R. Simon, Jr.  
Assistant United States Attorney  
Virginia State Bar Nos. 87998  
919 East Main Street, Suite 1900  
Richmond, Virginia 23219  
Phone: (804) 819-5400  
Fax: (804) 771-2316  
Email: Kenneth.Simon2@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31<sup>st</sup> day of October, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send an electronic notification of such filing to the following:

Laura Koenig  
Assistant Federal Public Defender  
Office of the Federal Public Defender

\_\_\_\_\_/s/\_\_\_\_\_  
Kenneth R. Simon, Jr.  
Assistant United States Attorney  
Virginia State Bar Nos. 87998  
919 East Main Street, Suite 1900  
Richmond, Virginia 23219  
Phone: (804) 819-5400  
Fax: (804) 771-2316  
Email: Kenneth.Simon2@usdoj.gov